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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,077	06/15/2005	Robert Ernsten	3657-1028	9230
466	7590	10/12/2007	EXAMINER	
YOUNG & THOMPSON			PARSLEY, DAVID J	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,077	<b>Applicant(s)</b> ERNSTEN ET AL.	
	<b>Examiner</b> David J. Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-15-05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### ***Preliminary Amendment***

1. Entry of applicant's preliminary amendments dated 6-15-05 and 8-24-05 into the application file is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the term "means". Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14, 20 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “for example” in line 9 of claim 14 and in line 7 of claim 27 renders the claim indefinite in that it is unclear to whether other types of seafood or biomass are being claimed.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what else the sensors are monitoring in view of the term “etc.” in line 6 of the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-15, 17-19, 21-28 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,447,553 to Hudson.

Referring to claims 12 and 23, Hudson discloses a trawl apparatus with a trawl – at 10, and a means for gathering seafood/biomass and conveying it to a seafood/biomass receiving vessel – at 24,27, wherein the trawl has an elongate, rigid or flexible collecting cage – see 14, which at an inlet opening is connected to the rear end region of the trawl – at 10 – see figures 2-3, and from the inlet opening extends into a second portion – see figure 3, which has openings for straining water – see at 14 in figure 3, and is terminated in a downstream portion – see at 14 in figure 3, wherein a conveying hose or pipe – at 2-4,4a,8, for conveying seafood/biomass from the collecting cage to the vessel – see figures 1-3, opens into the downstream aft portion of the cage via a funnel – at 8 – see figure 3, wherein air or other fluid is supplied from the vessel via a supply hose – at 21, for injection into the conveying hose or pipe, in order by an injector effect or fluid displacement technique – see figures 1-3, to bring seafood/biomass from the collecting cage up to the vessel – see figures 1-3, and wherein a filtering grille is provided to filter away seafood or biomass which is not be led to the funnel – see at the forward portion – at the end of 10 and 13 or – at 24-27, the supply of air or other fluid is, via the air supply hose adapted to be injected at a point on the conveying hose or pipe by means of an injector – at 23, on an upper area of the hose or pipe – at 4 – see figures 2-3, which has a marked upward gradient towards the surface of the sea – see figures 1-3.

Referring to claim 13, Hudson discloses the injector – at 23, is depth adjustable – via 18, to be positioned at a required location in the upper area – of 4 – see figures 1-3.

Referring to claim 14, Hudson discloses the sorting or filtering grill, is proved at the inlet opening of the collecting cage – see at 13, and is arranged to extend obliquely inwards and upwards, downwards and/or sideways in the collecting cage – see figure 3, and that a portion of roof, bottom and/or walls of the collecting cage located at a downstream end of the grill is open so that seafood/biomass for example, fish or foreign objects over a certain size do not pass through the grill but are led through the at least one open portion and away from the collecting cage – see figures 1-3.

Referring to claim 15, Hudson discloses the openings for straining water are formed of a self-cleaning grating or grill structure which may be rigid or flexible – see figures 1-3.

Referring to claim 17, Hudson discloses the collecting cage is modularly constructed of joined sections – see at 13,14 in figure 3.

Referring to claim 18, Hudson discloses the funnel is inside the cage – see at 11,30 in figure 3, the mouth of the funnel facing and spaced from closed aft wall of the cage – see figure 3.

Referring to claim 19, Hudson discloses after or during the conveyance of the seafood/biomass from the collecting cage to the vessel, there is provided a straining device – at 24-26, to separate seafood/biomass from seawater which accompanies it during its conveyance from the collecting cage to the vessel – see figures 1-4, and that in connection with the straining device there is provided a deceleration device – at 25,26, which is designed to reduce the conveying rate of the conveyed seafood/biomass – see figures 1-4.

Referring to claims 21-22, Hudson discloses the openings for straining water are formed of a self-cleaning grating or grill structure which may be rigid or flexible – see figures 1-3.

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Referring to claim 24, Hudson discloses the trawl – at 10, has an elongate rigid or flexible collecting cage – see at the end of 10, 13,14, the collecting cage begin chosen from the set of collecting cages consisting of rigid collecting cages and flexible collecting cages – see figures 1-3, the elongate collecting cage has a first portion, the first portion including an inlet opening – see figures 1-3, the inlet opening is located rearwardly of the trawl and is connected thereto – see at 10,13,14 in figures 1-3, the collecting cage has a second portion, the inlet opening leading into the second portion – see at 10,13,14 in figures 1-3, the second portion having openings therein, the opening being operable to strain water – see at 13,14 in figures 1-3, the collecting cage has a third portion mounted downstream of the second portion a funnel – at 8, is connected to the downstream portion – see at 10,13,14 in figures 1-3, a filtering grill – at 13,14, is mounted upstream of the funnel to filter away seafood or biomass which is not to be led to the funnel.

Referring to claim 25, Hudson discloses the injector provides for injector effect or fluid displacement technique, to bring the seafood/biomass from the collecting cage up to the vessel – see figures 1-3.

Referring to claim 26, Hudson discloses the injector is depth adjustable to be positioned at a required location in the upper area – see via 18 in figures 1-3.

Referring to claim 27, Hudson discloses the sorting or filtering grill is provided at the inlet opening of the collecting cage and is arranged to extend obliquely inwards and upwards, downwards and/or sideways in the collecting cage and a portion of roof, bottom and/or walls of the collecting cage located at a downstream end of the grill is open, so that seafood/biomass for example fish or foreign objects over a certain size do not pass through the grill, but are led through at least one portion and away from the collecting cage – see at 10,13,14 in figures 1-3.

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Referring to claim 28, Hudson discloses the openings for straining water are formed of a self-cleaning grating or grill – see at 10,13,14 in figures 1-3.

Referring to claim 30, Hudson discloses the collecting cage is modularly constructed of joined structures – see at 10,13,14 in figures 1-3.

Referring to claim 31, Hudson discloses the funnel is inside the cage – see at 11,30 in figure 3, and the mouth of the funnel faces and is spaced from the closed aft wall of the cage – see figures 1-3.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson as applied to claim 15 above, and further in view of U.S. Patent No. 3,440,752 to Minter.

Referring to claim 16, Hudson does not disclose that at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device for effecting the cleaning of the grating or grille structure. Minter does disclose at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device – see figure 7, for effecting the cleaning of the grating or grille structure – see figures 5-7. Therefore it would have been obvious to one of



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ordinary skill in the art to take the device of Hudson and add the mechanical device of Minter, so as to allow for the pipe to not be clogged during use.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson as applied to claim 12 above, and further in view of U.S. Patent Application Publication No. 2005/0160655 to Oorschot.

Referring to claim 20, Hudson does not disclose sensors are provided on or in connection with the collecting cage for monitoring the position/orientation of the collecting cage in the water depth, water flow etc. Oorschot does disclose sensors – at 21, are provided on or in connection with the collecting cage for monitoring the position/orientation of the collecting cage – see figure 4, in the water depth, water flow etc. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hudson and add the sensors of Oorschot, so as to allow for the user to determine the conditions in the water at the location of the cage.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson as applied to claim 24 above, and further in view of U.S. Patent No. 3,440,752 to Minter.

Referring to claim 29, Hudson does not disclose that at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device for effecting the cleaning of the grating or grille structure. Minter does disclose at least one wall, roof or bottom portion of the collecting cage is equipped with a mechanical device – see figure 7, for effecting the cleaning of the grating or grille structure – see figures 5-7. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hudson and add the mechanical device of Minter, so as to allow for the pipe to not be clogged during use.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to trawling devices in general:

U.S. Pat. No. 2,414,055 to Miller – shows trawl apparatus with cage and pipes

U.S. Pat. No. 3,273,276 to Engleson – shows trawl apparatus

U.S. Pat. No. 3,783,535 to Hanks – shows underwater collection device with pipes

U.S. Pat. No. 5,142,808 to Dupree et al. – shows underwater cage device

U.S. Pat. No. 5,361,528 to Peacock – shows trawl apparatus

U.S. Pat. No. 6,112,699 to Saxby et al. – shows trawl apparatus

U.S. Pat. No. 6,343,433 to Granberg – shows trawl apparatus

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID PARSLEY  
PRIMARY EXAMINER